

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)	
CORPORATION FOR AN ADJUSTMENT)	CASE NO. 2013-00148
OF RATES AND TARIFF MODIFICATIONS)	

ORDER

The Commission, on its own motion, HEREBY ORDERS that Stand Energy Corporation (“Stand Energy”) be given additional time, until March 14, 2014, in which to file a brief in this matter. Although the original deadline for the parties to file briefs was February 25, 2014, the Commission has been made aware of circumstances that support granting additional time to Stand Energy. Specifically, Stand Energy did not receive a DVD of the official transcript of the January 23, 2014 public hearing until February 26, 2014.

On January 28, 2014, the Commission mailed Stand Energy a DVD of what was believed at the time to contain only the public portion of the official transcript of the January 23, 2014 hearing. On January 29, 2014, the official transcript of the public portion of the hearing was filed in the electronic case file and was thus available to the public at that time. On January 30, 2014, it was discovered that the DVD of the official transcript of the hearing that had been mailed to Stand Energy had inadvertently contained confidential information. Because Stand Energy had not signed a confidentiality agreement with Atmos Energy Corporation (“Atmos Energy”), it was not entitled to receive confidential information. When this was discovered, Commission

Staff contacted counsel for Stand Energy, telephonically and through a follow-up email,¹ to discuss the error that had occurred. Counsel for Stand Energy informed Commission Staff that the DVD had not yet been received by Stand Energy, but agreed to return the unopened envelope containing the DVD to the Commission when it was received.² From January 30, 2014, to February 24, 2014, several emails were exchanged between Commission Staff and Stand Energy regarding this DVD. On February 24, 2014, the U.S. Postal Service returned the envelope which had contained the DVD sent to Stand Energy. The returned envelope was visibly damaged and did not contain the DVD. Photocopies of the front and back of this envelope are attached hereto as Appendix A.

On February 24, 2014, Commission Staff mailed a replacement DVD to Stand Energy which did not contain confidential information. On February 25, 2014, Stand Energy informed Commission Staff that the replacement DVD had not yet been received and noted that additional time would be needed to prepare and file its brief in this matter.³ Commission Staff responded to this request and recommended that a motion be filed.⁴ On February 26, 2014, Stand Energy notified Commission Staff that the deadline for filing briefs had passed and that it still had not received the replacement

¹ Email from Virginia Gregg, Staff Attorney for the Commission, to John Dosker, counsel for Stand Energy Corporation ("Stand Energy") (Jan. 30, 2014).

² Email from John Dosker, counsel for Stand Energy to Virginia Gregg, Staff Attorney for the Commission (Jan. 30, 2014). A follow-up letter from Jeff Derouen, Executive Director, Public Service Commission, to John Dosker, counsel for Stand Energy, was filed in the record of this case on January 31, 2014. On February 7, 2014, John Dosker, counsel for Stand Energy, filed a response to Mr. DeRouen's letter.

³ Email from John Dosker, counsel for Stand Energy, to Virginia Gregg, Staff Attorney for the Commission (Feb. 25, 2014).

⁴ Email from Virginia Gregg, Staff Attorney for the Commission, to John Dosker, counsel for Stand Energy (Feb. 25, 2014).

DVD.⁵ In a later email sent that same day, Stand Energy informed Commission Staff that the replacement DVD had been received.⁶

On February 26, 2014, Commission Staff notified Stand Energy that it would recommend to the Commission that Stand Energy's deadline for filing its brief be extended to March 14, 2014.⁷ On February 27, 2014, Stand Energy responded to Commission Staff and indicated that it would file its brief by March 14, 2014.⁸ Also on February 27, 2014, the Attorney General ("AG")⁹ and Atmos Energy¹⁰ expressed concerns about extending the deadline for Stand Energy and requested that they be given the opportunity to respond to Stand Energy's brief. Copies of the correspondence between Commission Staff and the parties, as detailed above, are collectively attached hereto and incorporated herein as Appendix B.

Based on a review of the above and being otherwise sufficiently advised, the Commission finds that, although the official public transcript of the January 23, 2014 hearing in this matter has been available to the public on the Commission's Web site since January 29, 2014, Stand Energy should nonetheless be granted additional time to

⁵ Email from John Dosker, counsel for Stand Energy, to Jeff Derouen, Executive Director, Public Service Commission and to Virginia Gregg, Staff Attorney for the Commission (Feb. 26, 2014).

⁶ Email from John Dosker, counsel for Stand Energy, to Virginia Gregg, Staff Attorney for the Commission (Feb. 26, 2014).

⁷ Email from Virginia Gregg, Staff Attorney for the Commission, to John Dosker, counsel for Stand Energy (Feb. 26, 2014).

⁸ Email from John Dosker, counsel for Stand Energy, to Virginia Gregg, Staff Attorney for the Commission (Feb. 27, 2014).

⁹ Email from Dennis Howard, Assistant Executive Director, Office of Rate Intervention, Office of the Kentucky Attorney General to Virginia Gregg, Staff Attorney for the Commission, John Dosker, counsel for Stand Energy, and John N. Hughes, counsel for Atmos Energy Corporation ("Atmos Energy")(Feb. 27, 2014).

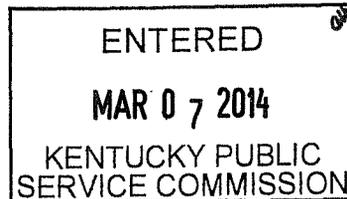
¹⁰ Email from John N. Hughes, counsel for Atmos Energy to Virginia Gregg, Staff Attorney for the Commission, Dennis Howard, Jennifer Hans, and Gregory Dutton, counsel with the AG, and John Dosker, counsel for Stand Energy (Feb. 27, 2014).

prepare and file its brief in this matter, subsequent to its receipt of the replacement DVD on February 26, 2014. The Commission also finds that the AG and Atmos Energy should be given an opportunity to respond to Stand Energy's brief.

IT IS THEREFORE ORDERED that:

1. Stand Energy is granted additional time, until March 14, 2014, to file a brief in this matter.
2. The AG and Atmos Energy shall have until March 21, 2014, to respond to Stand Energy's brief.
3. All other provisions of the Commission's prior Orders in this case shall remain in effect.

By the Commission



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2013-00148 DATED

MAR 07 2014

Kentucky Public Service Commission
211 S. 4th St.
Frankfort, KY 40601

NIXIE 492022010-1N 02/06/14

RETURN TO SENDER
REFUSED
UNABLE TO FORWARD
RETURN TO SENDER

|||||.....

Stand Energy Corporation
Attn: Joe [unclear]
1077 [unclear] Suite 4010
Cincinnati, OH 45207-1629



WE CARE

Dear Postal Customer:

We sincerely regret the damage to your mail by the Postal Service. We hope this did not inconvenience you. We realize that you expect it to be delivered in good condition.

Although every effort is made to prevent damage to the mail, occasionally this will occur because of the great volume handled and the rapid processing methods which must be employed to assure the most expeditious distribution possible.

We hope you understand. We assure you that we are constantly striving to improve our processing methods in order that even a rare occurrence may be eliminated.

Please accept our apologies.

Sincerely,

Your Postmaster

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2013-00148 DATED

MAR 07 2014

Gregg, Virginia W (PSC)

To: 13-148 Atmos Email
Subject: FW: 2013-00148 Atmos Energy

-----Original Message-----

From: Gregg, Virginia W (PSC) [<mailto:VirginiaW.Gregg@ky.gov>]
Sent: Thursday, January 30, 2014 12:32 PM
To: Dosker, John
Cc: John N. Hughes, Esq.; Douglas.Walther@atmosenergy.com; Martin, Mark A (Mark.Martin@atmosenergy.com); Randy Hutchinson; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG); Raff, Richard (PSC); Nguyen, Quang D (PSC); DeRouen, Jeff (PSC)
Subject: RE: 2013-00148 Atmos Energy

John:

This is to follow-up on our telephone call earlier today regarding confidential material that was inadvertently mailed to you from the Commission pertaining to the formal hearing held on January 23, 2014 at the Commission's offices. As you had not executed a confidentiality agreement, when the hearing went into a confidential session, you stepped out of the hearing room.

At your request, the official record of that hearing was mailed to you by the Commission on January 28, 2014, as counsel for Stand Energy. After mailing this to you it was discovered that what you were sent contained confidential material to which you are not privy. After I brought this to your attention, you agreed to immediately return any and all materials received to the Commission. You will be sent a replacement with the confidential materials removed.

I appreciate your cooperation with this and your assurance that neither you nor others at Stand Energy will see or make copies of this material prior to returning it to the Commission.

Please let me know if you have any questions.

Sincerely,

Virginia

Virginia W. Gregg
Staff Attorney
Office of General Counsel
Kentucky Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602
(502) 782-2584
VirginiaW.Gregg@ky.gov

Gregg, Virginia W (PSC)

To: 13-148 Atmos Rate Case
Subject: FW: 2013-00148 Atmos Energy

-----Original Message-----

From: Dosker, John [<mailto:JDosker@stand-energy.com>]
Sent: Thursday, January 30, 2014 1:48 PM
To: Gregg, Virginia W (PSC)
Cc: Ward, Mark
Subject: RE: 2013-00148 Atmos Energy

Virginia:

You're welcome. The materials have not yet been received by Stand. As I told you, our Receptionist position is vacant at the present time. I asked the young lady who opens the mail to intercept anything from the Kentucky PSC and NOT TO OPEN IT, BUT RETURN IT TO THE PSC UN-OPENED.

I will notify you when the package is received and returned.

John

Gregg, Virginia W (PSC)

From: Dosker, John <JDosker@stand-energy.com>
Sent: Tuesday, February 25, 2014 2:51 PM
To: Gregg, Virginia W (PSC)
Cc: Ward, Mark
Subject: Deadline For Filing Brief

Ms. Gregg:

Stand Energy was in no way at fault for the confusion surrounding Atmos confidential materials that may have been inadvertently mailed to Stand Energy.

Stand Energy's ability to prepare a brief has been delayed almost a month pending receipt of the DVD of the proceedings.

We still have not received our copy of the DVD. Atmos filed its Brief today.

Please consider extending Stand Energy additional time to prepare and file our brief in the Atmos Rate Case under the circumstances.

John Dosker

John M. Dosker
General Counsel
Stand Energy Corporation
Registered Corporate Counsel in Ohio
Licensed To Practice in Kentucky
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202-1629
(513) 621-1113 (Phone)
(513) 621-3773 (Fax)
jdosker@stand-energy.com

Rodgers, Kathleen (PSC)

From: Gregg, Virginia W (PSC)
Sent: Tuesday, February 25, 2014 3:06 PM
To: Dosker, John
Cc: Ward, Mark; John N. Hughes, Esq.; Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)
Subject: RE: Deadline For Filing Brief

John:

I would recommend that Stand Energy file a motion to this effect, as this is something that I do not have the authority to grant. Once received I will see that the motion gets considered as quickly as possible by the Commission. I would appreciate it if you could let me know as soon as you do receive the dvd that was sent out yesterday.

Sincerely,

Virginia

From: Dosker, John [<mailto:JDosker@stand-energy.com>]
Sent: Tuesday, February 25, 2014 2:51 PM
To: Gregg, Virginia W (PSC)
Cc: Ward, Mark
Subject: Deadline For Filing Brief

Ms. Gregg:

Stand Energy was in no way at fault for the confusion surrounding Atmos confidential materials that may have been inadvertently mailed to Stand Energy.

Stand Energy's ability to prepare a brief has been delayed almost a month pending receipt of the DVD of the proceedings.

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(513) 621-1113 (Phone)
(513) 621-3773 (Fax)
jdosker@stand-energy.com

Rodgers, Kathleen (PSC)

From: Dosker, John <JDosker@stand-energy.com>
Sent: Wednesday, February 26, 2014 8:41 AM
To: Gregg, Virginia W (PSC)
Cc: DeRouen, Jeff (PSC)
Subject: RE: Deadline For Filing Brief

Virginia:

I certainly hope whoever was responsible for not providing Stand Energy with a copy of the DVD of the proceedings (that occurred over a month ago), until AFTER the deadline date for filing briefs had passed, was following explicit written directions. Please take whatever actions are necessary for the PSC Staff to retain all internal communications regarding Stand Energy's participation in this case. The communications are relevant on appeal as well as the 42 U.S.C. Section 1983 civil rights action against the PSC seeking economic damages for flagrantly and intentionally violating Stand Energy's rights to substantive and procedural Due Process in this Rate Case – all under color of state law which may follow. The Atmos Special Contracts have been devastating to competition on the Western Kentucky/Atmos system and Stand was denied the opportunity to conduct discovery during the rate case and denied materials necessary to prepare a timely brief in the case. Also, please keep all communications and materials related to the DVD of Confidential Information which you claim was inadvertently mailed to Stand Energy but was never received by Stand Energy. There may be further investigation surrounding those events.

John Dosker

From: Gregg, Virginia W (PSC) [<mailto:VirginiaW.Gregg@ky.gov>]
Sent: Tuesday, February 25, 2014 3:43 PM
To: Dosker, John
Subject: RE: Deadline For Filing Brief

Thanks. Hopefully you will receive it tomorrow.

From: Dosker, John [<mailto:JDosker@stand-energy.com>]
Sent: Tuesday, February 25, 2014 3:15 PM
To: Gregg, Virginia W (PSC)
Subject: RE: Deadline For Filing Brief

Virginia.

OK. Not in Today's mail.

John Dosker

Gregg, Virginia W (PSC)

From: Dosker, John <JDosker@stand-energy.com>
Sent: Wednesday, February 26, 2014 1:41 PM
To: Gregg, Virginia W (PSC)
Subject: Atmos Rate Case DVD

The certified mail packet from the PSC arrived today. The plastic DVD case was cracked and broken but still together. I have confirmed the integrity of the DVD files. I suggest better packaging in the future.

John Dosker

John M. Dosker
General Counsel
Stand Energy Corporation
Registered Corporate Counsel in Ohio
Licensed To Practice in Kentucky
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202-1629
(513) 621-1113 (Phone)
(513) 621-3773 (Fax)
jdosker@stand-energy.com

Rodgers, Kathleen (PSC)

Subject: FW: Atmos Rate Case DVD

From: Gregg, Virginia W (PSC) [<mailto:VirginiaW.Gregg@ky.gov>]

Sent: Wednesday, February 26, 2014 2:53 PM

To: Dosker, John

Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)

Subject: RE: Atmos Rate Case DVD

John:

I have reviewed your concerns with Jeff DeRouen and he plans to recommend to the Commission that Stand Energy be given additional time, through March 14, 2014, to file its brief in this matter. As the transcript of the public portion of the January 23, 2014 formal hearing has been posted in the Electronic Case file in this matter since January 29, 2014, this additional time would seem appropriate.

Sincerely,

Virginia

Rodgers, Kathleen (PSC)

From: Dosker, John <JDosker@stand-energy.com>
Sent: Thursday, February 27, 2014 7:05 AM
To: Gregg, Virginia W (PSC)
Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)
Subject: RE: Atmos Rate Case DVD

Ms. Gregg:

Stand Energy accepts the offer. We will file our Brief on or before March 14.

John Dosker

From: Gregg, Virginia W (PSC) [<mailto:VirginiaW.Gregg@ky.gov>]
Sent: Wednesday, February 26, 2014 2:53 PM
To: Dosker, John
Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)
Subject: RE: Atmos Rate Case DVD

John:

I have reviewed your concerns with Jeff DeRouen and he plans to recommend to the Commission that Stand Energy be given additional time, through March 14, 2014, to file its brief in this matter. As the transcript of the public portion of the January 23, 2014 formal hearing has been posted in the Electronic Case file in this matter since January 29, 2014, this additional time would seem appropriate.

Sincerely,

Virginia

From: Dosker, John [<mailto:JDosker@stand-energy.com>]
Sent: Wednesday, February 26, 2014 1:41 PM
To: Gregg, Virginia W (PSC)
Subject: Atmos Rate Case DVD

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John Dosker

John M. Dosker

General Counsel

Stand Energy Corporation

Registered Corporate Counsel in Ohio

Licensed To Practice in Kentucky

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Cincinnati, Ohio 45202-1629

(513) 621-1113 (Phone)

(513) 621-3773 (Fax)

jdosker@stand-energy.com

Rodgers, Kathleen (PSC)

From: Howard, Dennis (KYOAG)
Sent: Thursday, February 27, 2014 7:53 AM
To: Dosker, John; Gregg, Virginia W (PSC)
Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Dutton, Gregory (KYOAG)
Subject: Atmos/Case No. 2013-00148/Stand's Briefing Request

To all:

The OAG has observed the exchanges between Stand and the PSC. However, to date, we have not found the need to participate. At this time, and as best as I can determine, Stand will be allowed to file a brief after the time ordered for briefing in Atmos Case No. 2013-00148. If that is the situation, this may raise concerns for the OAG based on the following:

- The Commission speaks through its orders.
- No motion to amend, alter, or modify the procedural schedule has been filed to extend the time for the filing of briefs.
- No order has been granted to allow an amendment, alteration or modification to the procedural order – including an enlargement of time to file briefs.
- The AG and Atmos have filed their briefs.
- An order granting an enlargement of time after the AG and Atmos have filed their briefs could prejudice them.
- Accordingly, if Stand is allowed to file a brief after the time heretofore established by the Commission, the AG and Atmos should be allowed to file responsive briefs to address Stand's brief **only**, if the parties so elect, and not address any other issues. **Stated another way, the AG and Atmos should not be afforded the opportunity to file reply briefs to each other.**
- Atmos has implemented its rates. While the rates are subject to refund, further delay in this proceeding will only complicate matters for the costumers.

Dennis Howard, II
Assistant Executive Director
Office of Rate Intervention
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
502.696.5453
dennis.howard@ag.ky.gov

From: Dosker, John [<mailto:JDosker@stand-energy.com>]
Sent: Thursday, February 27, 2014 7:05 AM
To: Gregg, Virginia W (PSC)
Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)
Subject: RE: Atmos Rate Case DVD

Ms. Gregg:

Stand Energy accepts the offer. We will file our Brief on or before March 14.

John Dosker

From: Gregg, Virginia W (PSC) [<mailto:VirginiaW.Gregg@ky.gov>]
Sent: Wednesday, February 26, 2014 2:53 PM

To: Dosker, John
Cc: John N. Hughes, Esq.; Hans, Jennifer (KYOAG); Howard, Dennis (KYOAG); Dutton, Gregory (KYOAG)
Subject: RE: Atmos Rate Case DVD

John:

I have reviewed your concerns with Jeff DeRouen and he plans to recommend to the Commission that Stand Energy be given additional time, through March 14, 2014, to file its brief in this matter. As the transcript of the public portion of the January 23, 2014 formal hearing has been posted in the Electronic Case file in this matter since January 29, 2014, this additional time would seem appropriate.

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To: Gregg, Virginia W (PSC)
Subject: Atmos Rate Case DVD

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I have confirmed the integrity of the DVD files. I suggest better packaging in the future.

John Dosker

John M. Dosker

General Counsel

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(513) 621-3773 (Fax)

jdosker@stand-energy.com

Gregg, Virginia W (PSC)

From: John Hughes <jnhughes@fewpb.net>
Sent: Thursday, February 27, 2014 2:02 PM
To: Gregg, Virginia W (PSC); Howard, Dennis (KYOAG); Hans, Jennifer (KYOAG); Dutton, Gregory (KYOAG); Dosker, John; randy@whplawfirm.com
Subject: Stand Energy Brief

Atmos concurs with the Attorney General's comments regarding the filed briefs and the pending filing of Stand Energy's brief.

--

John N.Hughes
Attorney at Law
124 W. Todd St.
Frankfort, KY 40601
502 227 7270 Ph
jnhughes@fewpb.net
Confidential/privileged attorney client communication

Honorable John M Dosker
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Office of the Attorney General Utility & Rate
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Frankfort, KENTUCKY 40601-8204

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Atmos Energy Corporation
5420 LBJ Freeway, Suite 1629
Dallas, TEXAS 75420

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Assistant Attorney General's Office
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Honorable John N Hughes
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Mark R Hutchinson
Wilson, Hutchinson & Poteat
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